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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/717,703	11/19/2003	Scott D'Avanzo	5611.00015	8861
29747	7590	06/16/2004	EXAMINER	
QUIRK & TRATOS 3773 HOWARD HUGHES PARKWAY SUITE 500 NORTH LAS VEGAS, NV 89109			LAYNO, BENJAMIN	
			ART UNIT	PAPER NUMBER
			3712	

DATE MAILED: 06/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/717,703	<b>Applicant(s)</b> D'AVANZO, SCOTT	
	<b>Examiner</b> Benjamin H. Layno	<b>Art Unit</b> 3712	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>06/14/04</u> | 6) <input type="checkbox"/> Other: ____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Laezzo et al.

The patent to Laezzo et al. discloses a gaming machine comprising a container 2 for holding a plurality of symbolized balls 5. An air suction source 10 agitates the symbolized balls. A plurality of compartments 7 positioned adjacent to the container captures the symbolized balls in random fashion.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-6, 8-10, 12-29 and 32-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matsumoto in view of Dodge.

The patent to Matsumoto discloses an electronic keno gaming machine 1, see Fig. 24 comprising a primary game machine 101, 102,..., and a secondary game

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including a container 3 for holding a plurality of symbolized keno balls B. A plurality of compartments 20 supported on a rotatable wheel 2 adjacent the container, captures one or more of the symbolized keno balls in a random fashion. Access doors 262, between the compartments and the container, opens to capture symbolized balls in the compartments, and closes to retain the balls in the compartments. A player uses an interface on the display 101a, 101d to select one or more keno numbers. A player is awarded based on the number of matches between the selected keno numbers and the captured balls, **see col. 23, lines 1-30**. The only feature recited claims 1, 13 and 27 which Matsumoto lacks is the air suction source.

The patent to Dodge teaches that it is well known in keno games to provide an air suction source for blowing keno balls randomly from a container to a compartment, col. 1, lines 11-17. In view of such teaching would have been obvious to incorporate an air suction source to Matsumoto's gaming machine. This modification would have made Matsumoto's gaming machine look more like a conventional keno game and therefore attract conventional keno players.

In regard to claim 4 and 19, Dodge teaches that it is well known in keno games to provide a total of eighty balls numbered from one to eighty. In view of such teaching, it would have been obvious to incorporate eighty balls to Matsumoto's game machine in order to simulate the well known keno game.

In regard to claims 9 and 21, providing a pointer for identifying the captured balls would have been obvious in the art in order to more clearly indicate which compartments have balls.

4. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Matsumoto et al. in view of Dodge as applied to claim 1 above, and further in view of Banyai.

The patent to Banyai discloses a keno game comprising a wild ball 27. In view of such teaching, it would have been obvious to provide a wild ball to Matsumoto's game. This modification would have given the players the perception of having a greater chance at winning keno, thus making Matsumoto's game more exciting to play.

5. Claims 7, 30 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matsumoto in view of Dodge as applied to claims 1 and 27 above, and further in view of Webb.

The patent to Webb discloses a slot machine comprising a bonus game. The bonus game comprises container 100 for holding a plurality of symbolized balls 102, an air source for agitating the symbolized balls, and a compartment 108 for capturing a symbolized ball. Captured symbolized balls are either summed to determine a gaming machine award or used as multipliers for multiplying the game machine award. In view of such teaching, it would have been obvious to incorporate a bonus game to Matsumoto's keno gaming machine. Summed and/or multiplier symbolized balls would have been provided in Matsumoto's gaming machine. If summed and/or multiplier symbolized balls are selected, awards would have been summed or multiplied making Matsumoto's game machine more exciting to play.

In regard to claim 7, Webb's gaming machine further comprises slot machine reels 34 having gaming indicia depicted thereon. Predetermined combination of gaming indicia on the slot machine reels initiates the random selection of the summed and multiplier symbolized balls. In view of such teaching, it would have been obvious to incorporate slot machine reels to Matsumoto's gaming machine. This modification would have made Matsumoto's game machine more exciting to play.

### ***Conclusion***

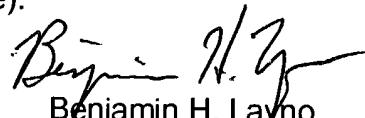
6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patent to Sloan discloses a keno gaming machine comprising a container for holding balls, and a wheel rotatable having compartments for capturing balls.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin H. Layno whose telephone number is (703) 308-1815. The examiner can normally be reached on Monday-Friday, 1st Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on (703) 308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Benjamin H. Layno  
Primary Examiner  
Art Unit 3712

bhl